

Environmental Protection Agency

1552.237-72

(End of clause)

1552.237-71 Technical direction.

As prescribed in 1537.110, insert a clause substantially the same as the following:

TECHNICAL DIRECTION (AUG 2009)

(a) Definitions.

Contracting officer technical representative (COTR), means an individual appointed by the contracting officer in accordance with Agency procedures to perform specific technical and administrative functions.

Task order, as used in this clause, means work assignment, delivery order, or any other document issued by the contracting officer to order work under a service contract.

(b) The contracting officer technical representative(s) may provide technical direction on contract or work request performance. Technical direction includes:

(1) Instruction to the contractor that approves approaches, solutions, designs, or refinements; fills in details; completes the general descriptions of work shifts emphasis among work areas or tasks; and

(2) Evaluation and acceptance of reports or other deliverables.

(c) Technical direction must be within the scope of work of the contract and any task order there under. The contracting officer technical representative(s) does not have the authority to issue technical direction which:

(1) Requires additional work outside the scope of the contract or task order;

(2) Constitutes a change as defined in the "Changes" clause;

(3) Causes an increase or decrease in the estimated cost of the contract or task order;

(4) Alters the period of performance of the contract or task order; or

(5) Changes any of the other terms or conditions of the contract or task order.

(d) Technical direction will be issued in writing or confirmed in writing within five (5) days after oral issuance. The contracting officer will be copied on any technical direction issued by the contracting officer technical representative.

(e) If, in the contractor's opinion, any instruction or direction by the contracting officer technical representative(s) falls within any of the categories defined in paragraph (c) of the clause, the contractor shall not proceed but shall notify the contracting officer in writing within 3 days after receiving it and shall request that the contracting officer take appropriate action as described in this paragraph. Upon receiving this notification, the contracting officer shall:

(1) Advise the contractor in writing as soon as practicable, but no later than 30 days after receipt of the contractor's notification, that the technical direction is within the scope of the contract effort and does not con-

stitute a change under the "Changes" clause of the contract;

(2) Advise the contractor within a reasonable time that the government will issue a written modification to the contract; or

(3) Advise the contractor that the technical direction is outside the scope of the contract and is thereby rescinded.

(f) A failure of the contractor and contracting officer to agree as to whether the technical direction is within the scope of the contract, or a failure to agree upon the contract action to be taken with respect thereto, shall be subject to the provisions of the clause entitled "Disputes" in this contract.

(g) Any action(s) taken by the contractor, in response to any direction given by any person acting on behalf of the government or any government official other than the contracting officer or the contracting officer technical representative, shall be at the contractor's risk.

(End of clause)

[74 FR 37175, July 28, 2009]

1552.237-72 Key personnel.

As prescribed in 1537.110, insert the following contract clause when it is necessary for contract performance to identify Contractor key personnel.

KEY PERSONNEL (APR 1984)

(a) The Contractor shall assign to this contract the following key personnel:

(b) During the first ninety (90) days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide the information required by paragraph (c) of this clause. After the initial 90-day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 days prior to making any permanent substitutions.

(c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. This clause will be modified to reflect any approved changes of key personnel.